OD-1

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/388/1998
WITH
AC/98/1993
IA NO: GA/1/1998 (Old No:GA/1913/1998)

EASTERN COALFIELDS LTD.
VERSUS
M/S.UNITED ENTERPRISES (I) O

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
AND
The Hon'ble JUSTICE BISWAROOP CHOWDHURY
Date : 4th March, 2025.

Appearance:
Mr. Shubrojyoti Mookherjee, Adv.
Mr. Anil Kumar Dhar, Adv.
Mr. Saptarshi Mukherjee, adv.
Mr. Pratik Acharjee, Adv.
...for the appellant

Mr. Lal Ratan Mondal, Adv.
Mr. Nemai Chandra Saha, Adv.
...for the respondent

1. The reports filed by the Registrar, Original Side and Registrar, IT are taken on record.
2. The reports reveal that an order was passed on 22nd June, 1998 in APOT/388/1998, GA/1913/1998 in AC/98/1993 (Eastern Coalfields Limited vs. M/S. United Enterprises (I) O) directing furnishing of security for the decretal amount to the satisfaction of the Registrar, Original Side within a period of three weeks as a condition precedent for stay of execution of the decree. Direction was passed for filing paper-books.

3. The appellant furnished security in the form of bank guarantee.
4. The appeal was dismissed for default on 16th August, 2005. The said order was transcribed in APO/343/1998 with AC/98/1993.
5. After almost six years, an application was filed by the ECL being GA/1952/2011 for renewal of the bank guarantee. The said application was also filed in APO/343/1998.
6. The conversion from APOT/388/1998 to APO/343/1998 could not be explained by the department. The department was of the view that APOT/388/1998 was not converted and re-numbered as APO/343/1998 although the appeal was treated as APO/343/1998. It is possible that after disposal of the stay petition and during migration, the appeal was assigned the nomenclature 'APO' and was renumbered as APO/343/1998.
7. ECL has filed an application being GA/2/2024 in APOT/388/1998 for extension of time to file bank guarantee. The said application was allowed on 27th November, 2024. Noticing discrepancies in the record, an order was passed on 17th February, 2025 directing the department to file a detailed report.
8. The Registrar, IT in his report has stated that it is not possible to ascertain the person who had entered APO/343/1998 in the system and there is nothing on record to show that APOT/388/1998 was converted and re-numbered as APO/343/1998.
9. However, having regard to the identity of the parties and the series of orders passed in APOT/388/1998, we direct the Registrar, IT

and all the departments concerned to treat APO/343/1998 as an appeal against the order and APOT/388/1998 and the application being GA/1913/1998 filed in APOT/388/1998 shall be recorded as disposed of on 22nd June, 1998.

10. All future orders in APOT/388/1998 shall be treated to have been passed in APO/343/1998.

11. In absence of any application or order allowing restoration of APO/343/1998, we direct the petitioner to file an application for restoration of the said appeal in order to regularise the court proceedings.

12. The matter stands adjourned till 26th March, 2025 and the petitioner shall take out a formal application for restoration of the appeal within a period of two weeks from date upon prior service to the learned advocate-on-record for the respondent.

13. Since there have been lapses on the part of the ECL in furnishing the bank guarantees, as would be evident from the record, the bank guarantee shall be invoked and the proceeds thereof shall be kept in a separate fixed deposit account by the Registrar, Original Side in a nationalised bank yielding highest return till the disposal of the appeal.

14. The Registrar, Original Side shall file a report with regard to compliance of this order and disclose the fixed deposit receipts on the adjourned date.

15. The Registrar, Original Side is directed to ensure production of GA/1/1998 (Old No: GA/1913/1998) and all orders passed in connection with the said application on the adjourned date.

(SOUMEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)

R.Bhar/kc